

AMENDED IN SENATE SEPTEMBER 7, 2011

AMENDED IN SENATE AUGUST 30, 2011

AMENDED IN SENATE JULY 12, 2011

AMENDED IN ASSEMBLY MAY 27, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1059**

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**Introduced by Assembly Member Huffman**

February 18, 2011

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~~An act to amend and repeal Section 1371.37 of the Health and Safety Code, relating to health care service plans. An act to amend Section 1797.98b of the Health and Safety Code, relating to emergency medical care.~~

### LEGISLATIVE COUNSEL'S DIGEST

AB 1059, as amended, Huffman. ~~Health care service plans. Emergency medical care.~~

*Existing law authorizes a county to establish an emergency medical services fund for reimbursement of emergency medical services (EMS) related costs, and requires an annual report to the Legislature on the implementation and status of the fund, including the fund balance and the amount of moneys disbursed to physicians and surgeons, for hospitals, and for other emergency medical services purposes.*

*This bill would require the report to provide additional information regarding the moneys collected and disbursed, including, but not limited to, a description of the other medical services purposes, and the total amount of allowable claims, if the moneys are disbursed to hospitals on a claims basis, and the names and contact information of the entity*

*responsible for the collection and disbursement of prescribed funds. By increasing the duties of local officials, this bill would impose a state-mandated local program.*

*The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

~~Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care. Existing law requires a health care service plan to pay claims for provided health care services within a specified period of time and prohibits a health care service plan from engaging in an unfair payment pattern, as defined.~~

~~This bill would require the director, upon a final determination that a health care service plan has underpaid or failed to pay a provider, as specified, to require the plan to pay the provider the amount owed plus interest, as specified. The bill would also specify that a provider shall not be required to resubmit a claim to a plan unless the director makes a determination that an extraordinary circumstance exists and requires the plan to reimburse the provider for the cost of resubmission, as specified.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 1797.98b of the Health and Safety Code
- 2     is amended to read:
- 3     1797.98b. (a) Each county establishing a fund, on January 1,
- 4     1989, and on each April 15 thereafter, shall report to the Legislature
- 5     on the implementation and status of the Emergency Medical
- 6     Services Fund. The report shall cover the preceding fiscal year,
- 7     and shall include, but not be limited to, all of the following:
- 8     (1) The total amount of fines and forfeitures collected, the total
- 9     amount of penalty assessments collected, and the total amount of
- 10    penalty assessments deposited into the Emergency Medical

1 ~~Services Fund.~~ *Fund, or, if no moneys were deposited into the*  
2 *fund, the reason or reasons for the lack of deposits. The total*  
3 *amounts of penalty assessments shall be listed on the basis of each*  
4 *statute that provides the authority for the penalty assessment,*  
5 *including Sections 76000, 76000.5, and 76104 of the Government*  
6 *Code, and Section 42007 of the Vehicle Code.*

7 *(2) The amount of penalty assessment funds collected under*  
8 *Section 76000.5 of the Government Code that are used for the*  
9 *purposes of subdivision (e) of Section 1797.98a.*

10 ~~(2)~~  
11 *(3) The fund balance and the amount of moneys disbursed under*  
12 *the program to physicians and surgeons, for hospitals, and for other*  
13 *emergency medical services—purposes. purposes, and the amount*  
14 *of money disbursed for actual administrative costs. If funds were*  
15 *disbursed for other emergency medical services, the report shall*  
16 *provide a description of each of those services.*

17 ~~(3)~~  
18 *(4) The number of claims paid to physicians and surgeons, and*  
19 *the percentage of claims paid, based on the uniform fee schedule,*  
20 *as adopted by the county.*

21 ~~(4)~~  
22 *(5) The amount of moneys available to be disbursed to*  
23 *physicians and surgeons, descriptions of the physician and surgeon*  
24 *and hospital claims payment methodologies, the dollar amount of*  
25 *the total allowable claims submitted, and the percentage at which*  
26 *those claims were reimbursed.*

27 ~~(5)~~  
28 *(6) A statement of the policies, procedures, and regulatory action*  
29 *taken to implement and run the program under this chapter.*

30 ~~(6)~~  
31 *(7) The name of the physician and surgeon and hospital*  
32 *administrator organization, or names of specific physicians and*  
33 *surgeons and hospital administrators,—contracted contacted to*  
34 *review claims payment methodologies.*

35 *(8) A description of the process used to solicit input from*  
36 *physicians and surgeons and hospitals to review payment*  
37 *distribution methodology as described in subdivision (a) of Section*  
38 *1797.98e.*

39 *(9) An identification of the fee schedule used by the county*  
40 *pursuant to subdivision (e) of Section 1797.98c.*

1 (10) (A) A description of the methodology used to disburse  
2 moneys to hospitals pursuant to subparagraph (B) of paragraph  
3 (5) of subdivision (b) of Section 1797.98a.

4 (B) The amount of moneys available to be disbursed to hospitals.

5 (C) If moneys are disbursed to hospitals on a claims basis, the  
6 dollar amount of the total allowable claims submitted and the  
7 percentage at which those claims were reimbursed to hospitals.

8 (11) The name and contact information of the entity responsible  
9 for each of the following:

10 (A) Collection of fines, forfeitures, and penalties.

11 (B) Distribution of penalty assessments into the Emergency  
12 Medical Services Fund.

13 (C) Distribution of moneys to physicians and surgeons.

14 (b) (1) Each county, upon request, shall make available to any  
15 member of the public the report required under subdivision (a).

16 (2) Each county, upon request, shall make available to any  
17 member of the public a listing of physicians and surgeons and  
18 hospitals that have received reimbursement from the Emergency  
19 Medical Services Fund and the amount of the reimbursement they  
20 have received. This listing shall be compiled on a semiannual basis.

21 *SEC. 2. If the Commission on State Mandates determines that*  
22 *this act contains costs mandated by the state, reimbursement to*  
23 *local agencies and school districts for those costs shall be made*  
24 *pursuant to Part 7 (commencing with Section 17500) of Division*  
25 *4 of Title 2 of the Government Code.*

26 ~~SECTION 1. Section 1371.37 of the Health and Safety Code,~~  
27 ~~as added by Section 6 of Chapter 827 of the Statutes of 2000, is~~  
28 ~~amended to read:~~

29 ~~1371.37. (a) A health care service plan is prohibited from~~  
30 ~~engaging in an unfair payment pattern, as defined in this section.~~

31 ~~(b) Consistent with subdivision (a) of Section 1371.39, the~~  
32 ~~director may investigate a health care service plan to determine~~  
33 ~~whether it has engaged in an unfair payment pattern.~~

34 ~~(c) An "unfair payment pattern," as used in this section, means~~  
35 ~~any of the following:~~

36 ~~(1) Engaging in a demonstrable and unjust pattern, as defined~~  
37 ~~by the department, of reviewing or processing complete and~~  
38 ~~accurate claims that results in payment delays.~~

1     ~~(2) Engaging in a demonstrable and unjust pattern, as defined~~  
2     ~~by the department, of reducing the amount of payment or denying~~  
3     ~~complete and accurate claims.~~

4     ~~(3) Failing on a repeated basis to pay the uncontested portions~~  
5     ~~of a claim within the timeframes specified in Section 1371, 1371.1,~~  
6     ~~or 1371.35.~~

7     ~~(4) Failing on a repeated basis to automatically include the~~  
8     ~~interest due on claims pursuant to Section 1371.~~

9     ~~(d) (1) Upon a final determination by the director that a health~~  
10    ~~care service plan has engaged in an unfair payment pattern, the~~  
11    ~~director may:~~

12    ~~(A) Impose monetary penalties as permitted under this chapter.~~

13    ~~(B) Require the health care service plan for a period of three~~  
14    ~~years from the date of the director's determination, or for a shorter~~  
15    ~~period prescribed by the director, to pay complete and accurate~~  
16    ~~claims from the provider within a shorter period of time than that~~  
17    ~~required by Section 1371. The provisions of this subparagraph~~  
18    ~~shall not become operative until January 1, 2002.~~

19    ~~(C) Include a claim for costs incurred by the department in any~~  
20    ~~administrative or judicial action, including investigative expenses~~  
21    ~~and the cost to monitor compliance by the plan.~~

22    ~~(2) For any overpayment made by a health care service plan~~  
23    ~~while subject to the provisions of paragraph (1), the provider shall~~  
24    ~~remain liable to the plan for repayment pursuant to Section 1371.1.~~

25    ~~(e) Upon a final determination by the director that a health care~~  
26    ~~service plan has engaged in an unfair payment pattern, the director~~  
27    ~~shall require the plan to pay the provider an amount that includes~~  
28    ~~the amount owed plus interest pursuant to subdivisions (b) and (c)~~  
29    ~~of Section 1371.35.~~

30    ~~(f) Except as provided in subdivision (g), a provider shall not~~  
31    ~~be required to resubmit a claim to a health care service plan in~~  
32    ~~order to receive payment pursuant to this section.~~

33    ~~(g) If the director makes a determination that an extraordinary~~  
34    ~~circumstance exists, the director may require a provider to resubmit~~  
35    ~~a claim to a health care service plan in order to receive payment~~  
36    ~~pursuant to this section, provided that the director also requires~~  
37    ~~the plan to add to the amount owed to the provider a reasonable~~  
38    ~~amount necessary to reimburse the provider for the cost of~~  
39    ~~resubmission.~~

1     ~~(h) The enforcement remedies provided in this section are not~~  
2     ~~exclusive and shall not limit or preclude the use of any otherwise~~  
3     ~~available criminal, civil, or administrative remedy.~~

4     ~~(i) The penalties set forth in this section shall not preclude,~~  
5     ~~suspend, affect, or impact any other duty, right, responsibility, or~~  
6     ~~obligation under a statute or under a contract between a health care~~  
7     ~~service plan and a provider.~~

8     ~~(j) A health care service plan may not delegate any statutory~~  
9     ~~liability under this section.~~

10    ~~(k) For the purposes of this section, “complete and accurate~~  
11    ~~claim” has the same meaning as that provided in the regulations~~  
12    ~~adopted by the department pursuant to subdivision (a) of Section~~  
13    ~~1371.38.~~

14    ~~(l) On or before December 31, 2001, the department shall report~~  
15    ~~to the Legislature and the Governor information regarding the~~  
16    ~~development of the definition of “unjust pattern” as used in this~~  
17    ~~section. This report shall include, but not be limited to, a~~  
18    ~~description of the process used and a list of the parties involved~~  
19    ~~in the department’s development of this definition as well as~~  
20    ~~recommendations for statutory adoption.~~

21    ~~(m) The department shall make available upon request and on~~  
22    ~~its website, information regarding actions taken pursuant to this~~  
23    ~~section, including a description of the activities that were the basis~~  
24    ~~for the action.~~

25    ~~SEC. 2. Section 1371.37 of the Health and Safety Code, as~~  
26    ~~added by Section 6 of Chapter 825 of the Statutes of 2000, is~~  
27    ~~repealed.~~